

Message Text

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AMEMBASSY MONTEVIDEO

C O N F I D E N T I A L SANTIAGO 3032

E. O. 11652: GDS
TAGS: SHUM, PINS, CI
SUBJECT: APPLICABILITY OF, AND REACTIONS TO, CHILEAN AMNESTY

REF: SANTIAGO 2936

1. SUMMARY: ALREADY HALF OF THE 90 PRISONERS CONVICTED BY MILITARY COURTS HAVE PHYSICALLY LEFT JAIL BY VIRTUE OF THE APRIL 18 AMNESTY. ANOTHER 850 NO LONGER HAVE TO SIGN-IN PERIODICALLY WITH AUTHORITIES. YET ANOTHER 1,100 SERVING COMMUTED SENTENCES ABROAD MAY NOW APPLY FOR RETURN TO CHILE. IT IS BELIEVED, BUT NOT ON THE RECORD, THAT THE SEVERAL HUNDRED PERSONS BEING TRIED BY MILITARY COURTS WILL BE PROCESSED QUICKLY AND GIVEN MINIMUM SENTENCES (PERHAPS OFFSET COMPLETELY BY TIME ALREADY SERVED). WHILE THOSE BEING TRIED BY CIVILIAN COURTS OR SERVING REGULAR SENTENCES ARE NOT AFFECTED BY THE MEASURE, THOUSANDS IN EXILE OR STILL IN CHILE WHO FEARED PROSECUTION FOR ANY EXCEPT

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THE CRIMES SPECIFICALLY EXEMPTED MUST NOW BE RELIEVED. THE GOC HOPES SOME "DISAPPEARED" WILL NOW COME FORTH. THE VICARIATE OF SOLIDARITY AND RELATIVES OF DISAPPEARED, OBJECT TO THE AMNESTY GRANTED SECURITY OFFICIALS FOR CRIMES LIKE HOMICIDE, KIDNAPPING, TORTURE AND FALSIFICATION OF OFFICIAL RECORDS. SUPREME COURT JUSTICES.

TOO, ARE EXAMINING WITH CONCERN WHAT COMMON CRIMES HAVE BEEN INCLUDED

IN THE AMNESTY. IN GENERAL, HOWEVER, THE AMNESTY HAS BEEN WELCOMED (EVEN BY SUCH PERSISTENT DETRACTORS AS THE CHRISTIAN DEMOCRATS) AS A NECESSARY STEP TO CLEAR THE WAY FOR POLITICAL TRANSITION. END SUMMARY.

2. RELEASE OF TH 90 OR SO PEOPLE CONVICTED BY MILITARY COURTS, AND IN JAIL, IS NOW WELL UNDERWAY AND SHOULD BE COMPLETED IN A FEW MORE DAYS. PERHAPS 10-15 OTHERS SERVING MILITARY-IMPOSED SENTENCES ALSO HAVE CONCOMITANT CRIMINAL SENTENCES (WHICH WERE NOT AMNESTIED) OR STILL FACE CIVIL CHARGES. ACCORDING TO GOC FIGURES, SOME 850 PEOPLE CONVICTED BY MILITARY COURTS BUT FREE ON CONDITIONAL LIBERTY, NO LONGER HAVE TO SING-IN WITH AUTHORITIES (THOSE SERVING " SENTENCES" OF INTERNAL BANISHMENT MAY MOVE FREELY ABOUT THE COUNTRY). THE GOVERNMENT GAVE NO FIGURES (NOR IS IT LIKELY TO) ON OMILITARY PERSONNEL AMNESTIED FOR THEIR MISTREATMENT OF PRISONERS.

3. ACCORDING TO GOC FIGURES, SOME 1,100 PRINCIPALS ARE STILL SERVING COMMUTED SENTENCES ABROAD. THEY ARE FREE TO APPLY FOR RE-ENTRY AS PROVIDED BY DECREE LAW 81. IT WILL BE RECALLED THAT DL 81 GIVES THE GOVERNMENT DISCRETIONARY AUTHORITY TO DECIDE WHICH PEOPLE WHO LEFT CHILE "IRREGULARLY" MAY COME BACK. GOVERNMENT FIGURES ARE QUOTED AS STATING THAT MOST, BUT NOT ALL, WILL BE APPROVED. SUCH HOSTILE CRITICS AS LUIS CORVALAN WOULD PROBABLY NOT BE ACCEPTED; OTHERS, SUCH AS SOCIALIST LEADER CARLOS ALTAMIRANO, MAY FACE CHARGES ON PENDING CASES OR FOR NON-AMNESTIED CRIMES --

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AND THEREFORE ARE NOT LIKELY TO APPLY. BUT THERE IS A WIDESPREAD SUPPOSITION THAT LARGE NUMBERS OF EXILES WILL ASK TO RETURN.

4. THE PURPOSE OF ARTICLES 1 AND 3 OF THE AMNESTY IS TO ELIMINATE THE POSSIBILITY OF PROSECUTION FOR ALL BUT SPECIFIC KINDS OF CRIMES WHICH TOOK PLACE DURING THE STATE OF SIEGE. IT DOES NOT COVER THOSE CIVILIANS CASES IN WHICH PERSONS ARE NOW BEING TRIED OR SERVING SENTENCES. SINCE THE TRIAL PROCESS DOES NOT START UNTIL A PERSON IS PHYSICALLY BEFORE A COURT, EVEN THOSE FOR WHOM AN ARREST WARRANT IS OUTSTANDING HAVE BEEN AMNESTIED. CRIMES FOR WHICH AMNESTY IS GRANTED INCLUDE ABDUCTION, BODILY HARM, PERJURY AND HOMICIDE IN GENERAL (ALTHOUGH PATRICIDE AND INFANTICIDE FALL OUTSIDE THE AMNESTY). THE PRINCIPAL BENEFICIARIES OF THESE SPECIFIC OMISSIONS ARE, OF COURSE, THE SECURITY SERVICES. MANY THOUSANDS MORE ANTI-GOC CHILEANS HERE AND ABOROARD, HOWEVER, NO LONGER HAVE TO FEAR PROSECUTION FOR ILLEGAL POLITICAL ACTIVITY. IN ADDITION THE GOC OBVIOUSLY HOPES THAT AMONG THE 600 PLUS DISAPPEARED PERSONS, SOME NOW WILL COME OUT OF HIDING, THUS LENDING SUPPORT TO ITS REPEATED ASSERTION THAT MANY OF THOSE MISSING WENT UNDERGROUND OR SLIPPED ILLEGALLY OUT OF CHILE.

5. THE VICARIATE OF SOLIDARITY AND THE RELATIVES OF THE DISAPPEARED

ALREADY HAVE CRITICIZED THE GOC FOR EXONERATING AUTHORITIES RESPONSIBLE FOR MURDER, KIDNAPPING AND TORTURE. MEANWHILE, SUPREME COURT JUSTICES ARE STUDYING WITH CONCERN THE LIST OF CRIMES INCLUDED AND OMITTED IN THE AMNESTY -- SOME OUT OF SYMPATHY WITH THE VIEWPOINT EXPRESSED BY THE VICARIATE LAWYER, OTHERS BECAUSE LEGAL COMPLEXITIES ARE BOUND TO RESULT.

7. COMMENT: MOST CHILEANS APPEAR TO BE WELCOMING THE AMNESTY AS A KEY STEP NEEDED TO CLEAR THE WAY FOR THE TRANSITION. EVEN CHRISTIAN DEMOCRAT LEADERS TOLD AN EMBOFF THAT THEY WERE PLEASED THAT THE AMNESTY HAD APPEARED AT THIS TIME. THEY OBSERVED THAT SOONER OR LATER AN AMNESTY WOULD HAVE BEEN NEEDED: BETTER FOR THE PRESENT REGIME TO DO IT THAN LEAVING IT TO A SUCCESSOR. THE PDC PLANS TO ISSUE NO PUBLIC STATEMENT ON THE AMNESTY BECAUSE OF THE

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CONTROVERSIAL ASPECT EXONERATING THE SECURITY SERVICES.

8. THE PRICE WITHIN THE MILITARY FOR GOING ALONG WITH THE AMNESTY FOR ANTI-GOC ELEMENTS WAS CLEARLY TO PROVIDE LEGAL IMMUNITY FOR THEMSELVES NOW THAT, AS DEMONSTRATED IN THE LETELIER AFFAIR, PINOCHET AND THE EXECUTIVE CANNOT GUARANTEE PROTECTION. AS WORDED, THE AMNESTY SERVES TO PREVENT THE CLARIFICATION OF HUNDREDS OF CASES OF ABDUCTION AND SUBSEQUENT MURDER ALMOST EXCLUSIVELY COMMITTED BY INDIVIDUALS IN THE SECURITY SERVICES.

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